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**Attorneys for Ae Ja Elliot Park**

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE**  
**NORTHERN MARIANA ISLANDS**

<b>AE JA ELLIOT PARK,</b>	)	<b>CIVIL ACTION NO. 07-0021</b>
	)	
<b>Plaintiff,</b>	)	
<b>vs.</b>	)	<b>MEMORANDUM IN</b>
	)	<b>SUPPORT OF PLAINTIFF'S</b>
<b>JARROD MANGLONA, MICHAEL</b>	)	<b>EX PARTE MOTION FOR</b>
<b>LANGDON, ANTHONY MACARANAS,</b>	)	<b>SERVICE BY PUBLICATION</b>
<b>DEPARTMENT OF PUBLIC SAFETY and</b>	)	
<b>JUAN DOES 1-4, NORBERT DUENAS</b>	)	
<b>BABAUTA,</b>	)	
<b>Defendants.</b>	)	

Rule 4 (e) (1) of the Federal Rules of Civil Procedure provides that service upon an adult, competent individual within a judicial district of the United States may be effected pursuant to the law of the state in which the court is located or where service is made.

Service by publication was valid under state law and therefore effective under Rule 4 (e)(1). *US v. Approximately \$14,173.00 in U.S. Currency*, 2006 WL 449100 (E.D. Cal., 2006)

Commonwealth law provides that service of process upon any person subject to the court's jurisdiction may be made as provided by 7 CMC § 1104 if the person cannot be found in the Commonwealth, with the same force and effect as if process had been personally served within the Commonwealth. 7 CMC § 1102

1 7 CMC § 1104 provides in relevant parts:

- 2 (a) When service of process is provided by CMC § 1102 and 1103,  
3 service shall be made by leaving a certified copy with the Attorney  
4 General, who shall keep a record of each such process and the  
5 day and hour of service; provided, that notice of the service and  
6 a copy of the summons and of the complaint are served upon  
7 the defendant personally by any person authorized to serve  
8 process ...; or sent by certified or registered mail ...
- 9 (b) After service on the Attorney General, if the defendant cannot  
10 be personally served by mail the summons and complaint, and if  
11 by affidavit or otherwise the court is satisfied that with reasonable  
12 diligence the defendant cannot be served, and that a cause of action  
13 arises upon whom service is to be made, or he is a necessary and  
14 proper party to the action, the court may order that service be made  
15 by publication of the summons in at least one newspaper published  
16 and having a general circulation in the Commonwealth. Publication  
17 shall be made once each week for four successive weeks, and the  
18 last publication shall not be less than 21 days prior to the return  
19 date stated herein.

20 Plaintiff seeks an order allowing service by publication because Defendants Michael  
21 Langdon and Norbert Duenas Babauta are believed to have permanently left the  
22 Commonwealth and to ensure that Plaintiff will lawfully be able to take judgment on the  
23 Complaint against said Defendants in the event that they fail to respond within twenty-one (21)  
24 days after the final publication. Plaintiff will also serve the Attorney General as required by  
25 law.

26 Dated: July 20, 2007.

27 O'CONNOR BERMAN DOTTS & BANES  
28 Attorneys for Plaintiff Ae Ja Elliot-Park

By: /s/  
David G. Banes, Esq.